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Date 10/16/92

Synopsis [REDACTED]

SEP 04 1992

Employee Identification Number: [REDACTED]

Key District Office: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(6) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

You were incorporated under the laws of [REDACTED] on [REDACTED].

Your articles of incorporation state that among your purposes are "[t]o further the productivity of [REDACTED] at user installations through the exchange of techniques, methods, and ideas among users and to influence the direction of development activities and services provided for [REDACTED] and related software products; . . . ." Your by-laws state that one of your purposes is to "provide [REDACTED] and other interested parties with the GROUP'S consensus relative to recommended enhancements, product changes, extensions, or new software".

[REDACTED] is a relational database management system manufactured by [REDACTED]. It is a method of information storage and retrieval. [REDACTED] can be installed on various types of computers and used in conjunction with various types of software.

Your by-laws provide that you are a membership organization open to "persons committed to sharing information on the effective utilization of [REDACTED]." You have stated that ownership or use of [REDACTED] is not a prerequisite for membership, and that your members include independent consultants, individuals who represent corporations, and consulting firms. [REDACTED] is not a corporate member of your organization, however, your membership includes individuals who work for [REDACTED]. [REDACTED] is not represented on your board.

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You conduct quarterly meetings for the purpose of sharing information and educating your members. Your rules of conduct prohibit sales activity or the conduct of business at the meetings. These meetings include presentations by ██████ representatives on subjects relating to ██████ and on other relational database topics. You pay ██████ a fee for these speakers. Speakers who are not associated with ██████ are not paid a fee. Meetings also include question and answer sessions during which discussions center on inadequacies of the ██████ software, how members are using the software, and any problems arising from use of ██████. You have stated that the purpose of this activity is to determine what users of ██████ would like to incorporate into the software in the future. Although results of these discussions are not supplied to ██████ on a regular, formal basis, the information is provided to ██████ upon request.

One of your quarterly meetings consists of a vendors fair, where ██████ related products are displayed. Products are not sold at the fair. You have stated that your ██████ vendors fair included manufacturers of products that compete with ██████, that ██████ did not participate in the fair, and that participation is open to vendors of any relational database or product.

You also publish a newsletter, which provides information on your activities and membership related issues, such as agendas for future meetings. Your newsletter restates your membership policy by stating that meetings are open to "anyone committed to sharing information on the effective utilization of ██████. Your newsletter has also contained lists of the titles and order numbers of ██████ documents published by ██████.

Your sources of support derive from membership meeting fees, fees paid by vendors to participate in the vendors fair, and interest.

Section 501(c)(6) of the Code provides for exemption from federal income tax of "[b]usiness leagues, chambers of commerce, real-estate boards, boards of trade, . . . not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of the Income Tax Regulations provides, in part, that "a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of

particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league."

Rev. Rul. 74-147, 1974-1 C.B. 136, held that an organization whose purpose was to exchange information regarding electronic data processing equipment and whose membership was comprised of diversified businesses who used digital computers manufactured by a variety of companies, qualified for exemption under section 501(c)(6) of the Code. The focus of the organization's activities was not on any specific brand of computer, rather activities were directed to more efficient utilization of all makes of computers in order to improve the business efficiency of the members and others who depended on computers in their businesses.

Rev. Rul. 83-164, 1983-2 C.B. 95, described an organization whose purpose was to conduct conferences for the dissemination of information concerning computers manufactured by one specific company, "M". Although the membership was comprised of various businesses that owned, rented or leased computers made by "M", membership was open to businesses that used other brands of computers. At the conferences, presentations were given primarily by representatives of "M", as well as by other experts in the computer field. Problems related to members use of "M's" computers were also discussed. Current information concerning "M's" products was also provided at the conferences. The ruling held that, by directing its activities to businesses that used computers made by one manufacturer, the organization was improving business conditions in a segment of a line of business rather than in an industry as a whole. Finally, the ruling concluded that, by providing a focus on the products of one particular manufacturer, the organization was providing "M" with a competitive advantage at the expense of manufacturers of other computer brands.

In National Muffler Dealers Assn v. U.S., 440 U.S. 472 (1979), the Supreme Court held that an organization whose membership consisted of the franchisees of one brand of muffler did not constitute a line of business within the meaning of section 501(c)(6) of the Code because a single brand represented only a segment of an industry. The Court noted that the term "line of business" has been interpreted to mean either an entire industry or all components of an industry within a geographic area.

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In Guide International Corporation v. U.S., 948 F.2d 360 (7th Cir. 1991), affirming 90-1 U.S.T.C. para. 50,304 (1990), the U.S. Court of Appeals upheld a District Court ruling that a nonprofit organization, whose purpose was to provide a forum for information exchange regarding data processing systems and products manufactured by IBM, did not qualify for exemption under section 501(c)(6) of the Code. The organization's by-laws stated that its purpose was to review and exchange information on IBM products and services. Although the by-laws restricted membership to organizations who owned IBM computers, membership actually included companies that competed with IBM. The primary activity of the organization was sponsorship of conferences that focused on data processing issues, at which representatives of IBM and other companies gave presentations. The organization communicated matters discussed at the conferences to IBM. The Appeals Court agreed with the District Court that, although the organization stated that its purpose was to promote the exchange of information concerning data processing equipment in general, the principal focus was on IBM equipment, which represented only a segment of the industry. Despite the fact that the membership in the organization represented companies other than IBM, the Court held that no single business was promoted. Rather, the benefit went to IBM and to those individuals who used IBM mainframes. Finally, both Court's agreed that the organization served as a marketing tool for IBM by serving as a forum for IBM customers to learn about new products and services, as well as providing an opportunity for IBM to receive feedback about its products and services to further product development.

██████ is a proprietary software program developed and manufactured by █████. Your articles of incorporation and by-laws specify that the purpose of your activities is to further the productivity of this particular product, as well as to influence the future development of that product. Further, your by-laws state that your membership "shall consist of persons committed to sharing information on the effective utilization of █████". Your activities emphasize the use of █████ and products that can be used with █████. Although you permit other vendors to participate in your vendors fair, █████ and related products predominate. In addition, the information submitted with your application demonstrates that use of █████ is the focus of your meetings and of the articles presented in your newsletter.

Regardless of the fact that you actually permit representatives of other vendors and users of other brands of relational database systems to join your organization and to

participate in your activities, your purposes and activities are limited to promoting the product of one manufacturer. Thus, you are not like the organization in Rev. Rul. 74-147, supra, because your purposes and activities are not focused on the use of relational database systems without regard to particular manufacturers. Inasmuch as you are similar to the organizations in Rev. Rul. 83-164, supra, and Guide International Corporation, supra, whose purposes centered on one manufacturer, like those organizations, your activities serve to promote a segment of the computer industry, rather than the industry as a whole. Therefore, you do not meet the line of business requirement because, as stated in National Muffler Dealers Assn, supra, you do not represent an entire industry or all components of an industry within a geographic area. Further, as in Guide International Corporation, the various businesses that comprise your membership do not benefit from your activities. The primary beneficiary is [REDACTED] and those who use [REDACTED] and purchase [REDACTED] related products.

Further, by focusing your purposes and activities on [REDACTED]'s product, your organization serves as a marketing tool for [REDACTED]. Like the organization in Guide International Corporation, supra, you serve as a forum for [REDACTED] customers to learn about new products and services, as well as to provide [REDACTED] with the opportunity to receive feedback regarding its products and services in order to further product development. Thus, like the organization in Rev. Rul. 83-164, supra, your activities give [REDACTED] a competitive advantage at the expense of other manufacturers of relational database systems.

Accordingly, since your activities are not directed to the improvement of business conditions in a line of business, you are not an organization described in section 501(c)(6) of the Code.

You are required to file federal income tax returns. Since you are a corporation, you must file Form 1120 with the District Director of Internal Revenue for the area in which your principal place of business is located.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 30 days from the date of this letter. You also have a right to a conference in this office

[REDACTED]

after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to the District Director, Atlanta, Georgia. Thereafter, any questions about your federal income status or the filing of returns should be addressed to that office.

If you decide to protest this proposed ruling, you will expedite our receipt of your communication by placing the following symbols on the envelope as part of our address:

[REDACTED].

Sincerely,

[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 4

cc: [REDACTED] 1-19-93 [REDACTED]

[REDACTED]  
[REDACTED]  
Sept 3, 1992

[REDACTED]  
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